

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

RALPH E. BRANCHE, et ux.,)
Plaintiffs,)
v.) No. 3:06-CV-234
ZIMMER, INC.,) (Phillips)
Defendant.)

ORDER

This matter came before the court on plaintiff's motion to continue the trial currently set for November 17, 2008. In support of the motion, plaintiff states that he recently suffered a fracture to the same lower extremity that is the subject of this litigation. Plaintiff further states that defendants contend that the medical implant device failed due to insufficient bone mass in plaintiff's femur. Therefore, plaintiff states that it is necessary to conclude treatment for the broken leg with his treating physician in order for his physician to render an opinion regarding causation within the context of plaintiff's medical history. Plaintiff states in the motion that he has conferred with opposing counsel and that defendant opposes any continuance.

Although the court is reluctant to grant another continuance in this case, it does appear that plaintiff's recent injury calls into question the reason for the failure of the

medical device. Thus, defendant will not be prejudiced by a continuance of the trial to investigate this matter further. Accordingly, plaintiff's motion to continue the trial [Doc. 144] is **GRANTED**.

1. The trial of this case is continued and shall commence on **October 19, 2009**.
2. A final pretrial conference shall be held in this case on **October 9, 2009 at 1:30 p.m.**
3. All deadlines contained in the scheduling order previously entered in this case shall be adjusted to correspond to the new trial date.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge